

Exhibit “C”

THE LAW OFFICES OF

Christina M. Martinez

Admitted in:
New York
New Jersey

245 Bricktown Way, Suite J
Staten Island, New York 10309
T: (347) 215-4543
F: (718) 556-2007

ChristinaMartinezEsq@gmail.com

November 24, 2021

New York City Appeal Panel

RE: Department of Investigation Religious Exemption Appeal

To Whom It May Concern:

I write on behalf of Liz Delagdo in her appeal of the Department of Investigation's denial of her request for a religious exemption to the Order of the Commissioner of Health and Mental Hygiene that requires all New York City workers to be vaccinated. Ms. Delgado's sincerely held religious beliefs satisfy all of the requirements for federal protection under Title VII of the Civil Rights Act of 1964. Her denial is a willful deprivation of her civil rights and per se discrimination against her on the basis of her religious beliefs. Ms. Delgado's religious exemption request should be granted to preserve her federally protected rights and to ensure the Department of Investigation's compliance with Title VII.

Both state and federal law allow an employee to refuse vaccination based on a sincere and genuine personal religious belief. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based upon religion Pursuant to Title VII, it is "unlawful for an employer not to make a reasonable accommodation, short of undue hardship, for the religious practices of his employees." *TWA v. Hardison*, 432 US 63, 74 (1977). New York similarly proscribes discrimination in employment based upon creed, and the New York Human Rights law states that "it shall be an unlawful discriminatory practice for any employer, or an employee or agent thereof, to impose upon a person as a condition of... retaining employment... that would require such person to violate or forego a sincerely held practice of his or her religion." N.Y. Executive Law, Article 15, Section 296, (10)(a).

Ms. Delgado's objections are genuine and sincere, and religious in nature. She is a devout Catholic. In her original submission to the Department of Investigation, Ms. Delgado wrote a letter explaining the tenets of her faith which conflict with vaccination, as well as her personal religious history. She objects to all vaccines and some other medical treatments on account of her

religious beliefs. She has held these beliefs for many years. During the interactive conversation with the Department of Investigation (“DOI”) where she was questioned on her religious beliefs by the associate general counsel for DOI and the director of human resources, she was asked who her religious leader is. Although, the reason for Ms. Delgado’s denial is quite vague and only states that her request is “not based on a sincerely held religious belief,” I surmise based on this question that DOI takes issue with the fact that Ms. Delgado is a Catholic and that the Pope has made certain public statements about the COVID-19 vaccine.

It is well-settled law, acknowledged by the Supreme Court of the United States all the way down to the courts of New York and administrative agencies in between, that an individual seeking to demonstrate a sincerely held religious belief need not prove that her belief is part of the recognized dogma of a religious sect. *Widmar v. Vincent*, 454 U.S. 263 (1981)(“The beliefs need not be consistent with the dogma of any organized religion, whether or not the plaintiffs belong to any recognized religious organization.”); *Bowles v. NYCTA*, (S.D.N.Y. 2006)(holding whether the church prohibits what he believes it prohibits was irrelevant); *Redmond v. GAF Corporation*, 574 F.2d 897 (7th Cir. 1978)(“Title VII is not restricted to protecting those practices which are mandated or prohibited by a tenet of the religion.”); Equal Employment Opportunity Commission, *What You Should Know: Workplace Religious Accommodation*, (0306-2014), <https://www.eeoc.gov/laws/guidance/what-you-should-know-workplace-religiousaccommodation> (“a religious practice may be sincerely held by an individual even if newly adopted, not consistently observed, or different from the commonly followed tenets of the individual’s religion.”). Under Title VII, the appropriate inquiry is only whether the employee’s beliefs are religious in nature and sincerely held. *United States v. Seeger*, 380 U.S. 163, 185 (1965). *See also, Rivera v. Choice Courier Sys.*, 2004 U.S. Dist. LEXIS 11758, at *15 (S.D.N.Y. 2004) (“A Court’s limited role in determining whether a belief is ‘religious’ is the same under Title VII as it is under the Free Exercise Clause of the First Amendment”).

Pursuant to federal law, “the fact that the religious group to which the individual professes to belong may not accept such belief will not determine whether the belief is a religious belief of the employee.” 29 C.F.R. 1605.1. An employee’s belief or practice can be “religious” under Title VII even if the employee is affiliated with a religious group that does not espouse or recognize that individual’s belief or practice, or if few – or no – other people adhere to it. *Welsh v. U.S.*, 398 U.S. 333, 343 (finding that petitioner’s beliefs were religious in nature although the church to which he belonged did not teach those beliefs); *Thomas v. Rev. Bd. Of Ind. Emp’t Sec. Div.*, 450 U.S. 707, 715 (1981) (disagreement among sect workers as to whether their religion made it sinful to work in an armaments factory irrelevant to whether belief was religious in nature because “[t]he guarantee of free exercise is not limited to beliefs which are shared by all of the members of a religious sect.”).

It is well established that the law protects personal religious beliefs despite whether they are espoused by the organized religion which the employee belongs to. The categorical denial of all Roman Catholics, despite personal sincerely held religious beliefs that prevent vaccination is not only in violation of Title VII and the New York Human Rights Law, it also runs afoul of the First Amendment of the United States Constitution. The exclusion of members of Catholicism by the any city agency creates an official denominational preference by the government which the First Amendment forbids. “The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another. This constitutional prohibition

of denominational preferences is inextricably connected with the continuing vitality of the Free Exercise Clause...The government must be neutral when it comes to competition between sects.” *Larson v. Valente*, 456 U.S. 228, 102 S.Ct. 1673, 72 L.Ed.2d 33 (1982) (invalidating a state statute excluding only those religious organizations that received more than half of their total contributions from members from an exemption for reporting and registration mandates, held that the state treated some religious denominations more favorably than others in violation of the Establishment Clause). “The State may not adopt programs or practices . . . which ‘aid or oppose’ any religion. . . . This prohibition is absolute.” *Id.* The Supreme Court of the United States cautions: “it must be remembered that, in resolving these exemption problems, one deals with the beliefs of different individuals who will articulate them in a multitude of ways. In such an intensely personal area, of course, the claim of the registrant that his belief is an essential part of a religious faith must be given great weight.” *U.S. v. Seeger*, 85 S.Ct. 850, 863, 380 U.S. 163, 184 (1965).

Moreover, there are authoritative Catholic Church teachings and doctrine which demonstrate the principled religious basis on which an individual Catholic may determine that he must refuse the COVID-19 vaccine. The Catholic Church has released its official position in a document entitled “Note on the morality of using some anti-Covid-19 vaccines,” published by the Congregation for the Doctrine of the Faith, the body within the Roman Catholic Church responsible for promulgating and defending Catholic doctrine. https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20201221_nota-vaccini-anticovid_en.html. The official stance of the Roman Catholic Church is that the COVID-19 vaccine “must be voluntary.” The Church explicitly mentions Catholics who refuse the vaccine “for reasons of conscience,” and says that “vaccination is not, as a rule, a moral obligation.” My client has no obligation to explain the makeup and structure or faith and tenets of the Roman Catholic Church. “This kind of state inspection and evaluation of the religious content of a religious organization is fraught with the sort of entanglement that the Constitution forbids. It is a relationship pregnant with dangers of excessive government direction . . . of churches.” *Lemon v. Kurtzman*, 403 U.S. 602, 620 (1971). Pursuant to Title VII, my client only needs to explain the personal religious beliefs to which she sincerely subscribes.

On this basis, Ms. Delgado respectfully appeals the denial by DOI and requests that the City Panel reverse the decision and grant her a reasonable accommodation in accordance with state and federal law. It is evident that Ms. Delgado’s submission satisfies the legal requirements of a sincerely held religious belief. The continued denial of Ms. Delgado’s religious accommodation is unlawful and discriminatory. With the information provided, it is abundantly clear that Ms. Delgado incontrovertibly demonstrated sincere and genuine religious beliefs that prohibit her from receiving the COVID-19 vaccines.

In the event that it is your intention to deny this appeal after reviewing the documents submitted by Ms. Delgado, then she requests an in-person hearing. The appeal options provided by DOI force Ms. Delgado to choose between an in-person hearing before an arbitrator after she waives her right to sue or written documentation submitted to this city-wide panel. There are clear due process implications where my client is being deprived of all the privileges of employment without proper procedural protections, such as the opportunity to be heard at a hearing.

If you have any questions, please contact the undersigned.

Thank you,

A handwritten signature in black ink, appearing to read "Christina Martinez". The signature is fluid and cursive, with the first name "Christina" written in a larger, more prominent script than the last name "Martinez".

Christina Martinez, Esq.

Liz B. Delgado

[REDACTED]
Staten Island, N.Y. 10308

November 23, 2021

RE: Department of Investigation Appeal

To Whom It May Concern:

I am writing to formally and respectfully appeal the denial of my religious exemption to immunization. I was denied on the basis that my request was “not based on a sincerely held religious, moral, or ethical belief.” However, my religious exemption was based on my sincerely held religious beliefs. The Department of Investigation wrongly denied my religious exemption pursuant to Title VII of the Civil Rights Act of 1964 and New York State Executive Law, Article 15, Human Rights Law, Section 296. I ask that this application be kept confidential as it contains thoughts and sentiments not shared in casual conversations, and is extremely personal in nature.

My Life, Directed by His Word

I was born and raised in a devout Catholic family. My parents including my Grandmother, aunts and uncles were all God-fearing people devoted to our faith. I completed all of my sacraments. I attended church every Sunday. My family members taught me my prayers and I had to recite them daily in practice. I volunteered at Church, bringing Communion to the homes of the sick that were not able to attend church services. St. Peter and Paul church in Williamsburg Brooklyn was my home. That’s where I spent special times with my Grandmother where we sat at the same pew each week. That’s where I was confirmed, married and my son made his first holy communion. Sadly, that church closed and was knocked down. Condos were built. It was devastating. I felt a huge part of my life went down with it. As a teenager, I was very involved in the Jornadista Movement which was a youth movement at our church. I attended retreats, and church prayer meetings several times a week. Religion has never been a casual part of my life. Prayer has always been an extremely important aspect of my faith. Prayer is how we communicate with God. It is how we unload our problems and emotional pain, and also how we express our love and devotion to God. From childhood to today, my faith has been a driving factor in the decisions I make and the way that I live my life. My faith has never weakened and my relationship with God has never been broken. Today, I am a member of St. Clare’s Church.

I have always been dedicated to my faith. When I was younger, I wanted to become a nun. Catholicism depends on revelation in order to know God. We would know not the truth of God had he not chosen to reveal Himself to us. The bible is a record of God’s revelations to us. The Church calls the bible the “Word of God” because the contents are God’s testimony and divine teaching revealed to us. Throughout my life, I have experienced direct revelations, private

messages from God to me directly. I remember one revelation that changed my life forever and one that still to this day I remember in vivid detail. At age 11, one summer day my mother and I were laying my baby brother down for a nap. As I lay next to him, suddenly, I saw a bright light on the ceiling. The more I stared at the light the brighter it got. I saw a ball that looked like the world with feet on them. As that image kept coming down from the ceiling I noticed it was the Virgin Mary. She had porcelain skin and her hair was wavy and cottony soft. She wore a white veil over her head and a light blue dress. She stopped right at my feet. I felt a warmth like never before. I sat on the bed and the Virgin Mary looked over underneath me and saw my brother. She made the sign of the cross and said "God Bless you" to my brother. Every time I tell this story I relive it as if it is happening now. After her blessing, she slowly went back up through the ceiling. I really thought it was a dream. When I told my mother it was a dream because she was right there, she said I wasn't sleeping at all. I was wide awake. I know that it was a revelation, and I will never forget. That was confirmation of all I have learned. It is real for me. My faith grew deeper after that. Most teenagers wanted to hang out with their friends and I wanted to be in church with friends who shared my same beliefs. Since that revelation my prayers got stronger, my gratitude for the good things and the bad grew. By being still, praying and letting God speak to me I've had several revelations throughout my life.

When I was married, I tried to conceive for five years and wasn't able to. I lived in upstate NY at that time, and I attended St. Mary's Catholic church there. I attended mass weekly and I prayed and asked God to give me understanding and acceptance for his will. If it was meant for me to not have a child, give me peace and acceptance. It took a lot of praying to get to that point because I realized it's his will not mine. Shortly after, I found out I was having a boy. The joy of my life and my reason in life. When I give my battles to God he answers my prayers. I wished I was able to have another child but I accepted the fact that wasn't in God's plans for me. Every good thing that happens in my life is because I Trust him with everything. I thank him for the hard times and for all the blessings. I pray for those who try to hurt me. My son was also baptized at St. Mary's Church in Poughkeepsie.

In 2003, I was going through an extremely difficult time in my life and my health was deteriorating. I knew something was wrong. I developed asthma and felt a large lump in my armpit. The first doctor said I was too young (I was 33 years old at the time) and since I had no family history of breast cancer, there was no need to have a Mammogram or sonogram. I must say I was pleased that according to the experts nothing was wrong. However, my symptoms worsened and the conviction in my heart from God kept telling me to keep seeking answers. As a Catholic, the Church teaches us from a young age the importance of our conscience. Conscience is God reaching out to you and trying to communicate His will for you. It is another form of revelation. I followed my conscience directed by God and despite the doctors telling me that nothing was wrong, I kept going to different doctors to try to figure out what was wrong. Several doctors later, in April, 2004, I finally got a stage 3 breast cancer diagnosis which spread to my lymph nodes. At this point, I knew this journey was to be dependent on what God revealed to me. This was definitely a time to test my faith, my beliefs and my trust in the Our Heavenly Father. I faced two years of uncertainty, worrying over who would care for my 9-year-

old son and how I was going to provide for him as a single parent. This experience caused me to re-examine my relationship with God.

I have relied on the word of God, taken from the Bible, to get me through the trials of my life that I have faced. It was through prayer and revelation that God comforted me in the treatment of my illness. I prayed each day. I asked God to help me live to see my son graduate from High School. I prayed at every chemo session, I prayed and praised God at every radiation session, I prayed through every surgery and I prayed for strength and restoration. The more I prayed the stronger my faith and the closer I felt to God. I knew that this was not my struggle. It was God's struggle and his plan for my life. Knowing this, taught me to trust his plan. Trusting his plan meant it was all up to him. If he can bring me to it, he can get me through it. If I doubted his healing power, then that meant I didn't have faith. My relationship with God was stronger than ever during my darkest days. It removed all my worries and doubts because I knew and trusted I would be okay. It was his plan for me to survive and see my son way beyond High School graduation and I am more than grateful for it.

I consult with the Bible for strength and affirmation of the word of God. Living according to the teachings of the Bible is central to true devotion and worship. Josh. 1:7–8; 2 Kings 17:13; 22:8–13. I turn to the Bible for many of life's major decisions. Including all the facets of how to raise my son. Decisions regarding our health are a huge part of mothering my son. The procedure of immunization is part of those important health decisions I face. While there is no scripture in the Bible that states, verbatim, not to vaccinate, I understand through my translation of the word of God and my convictions, that immunizations are contrary to God's law.

I Put My Trust in the Lord

"Every word of God is pure: He is a shield unto them that put their trust in Him." Proverbs 30:5. His word is pure. That means his word is honest and true. He is a shield for us, as long as we trust Him. This means, to me, that as long as I trust Him, he will shield me. If God wants me to get COVID-19 then I will. And if I do, he will protect me. Therefore, I do not need vaccines. To trust in the creations of man rather than the pure word of God is to turn my back on Him and tarnish my relationship with God. I cannot do that. Trust in God is an all-or-nothing proposal. I do not receive any vaccines on this basis.

"So that your faith might not rest on human wisdom but on the power of God." 1 Corinthians, 2:5. This describes my faith in God and his healing power. This does not mean that I reject all doctors or medical treatment. In the Bible, Jesus says "It is not the healthy who need a doctor, but the sick." Matthew 9:12. When I had cancer, my body was sick. I sought the help of doctors. Obviously, many doctors failed me. This is because doctors are not all powerful or all-knowing like God is. The doctor who was able to help me did so through God's will. "I planted, Apollos watered, but God was causing the growth." 1 Corinthians 3:6. In the same way that a farmer plants the seed but God causes the growth, a doctor heals but God is the true healer.

God has revealed to me that vaccination is not right. I owe my life to God. Going against his will, will go against my faith and belief that has led me to where I am with God right now. All of those experiences will serve no purpose in my life. I believe that cancer was a blessing because it allowed me to help others in my situation. I was a single mother at that time not knowing how I was going to provide for my son and I but God made a way as he always does. If I didn't fully trust that he will never abandon me then that isn't being faithful. "Trust in the Lord with all your heart, and lean not on your own understanding; In all your ways acknowledge Him, and he shall direct your paths." Proverbs 3:5-6.

In any medical decision, you should seek out God's intervention. "Is anyone among you suffering? Let him pray." James 5:13. Prayer has always been the cornerstone of my faith. God does not always respond to our prayers in a way we would like Him to. But He ultimately knows what is best and right for each of us. "For my thoughts are not your thoughts, neither are your ways my ways, declares the Lord. For as the heavens are higher than the earth, so are my ways higher than your ways and my thoughts than your thoughts." Isaiah 55:8-9. Everything he reveals to us whether through his Word in the bible, Church teachings, revelations, conscience, it is all for our best interest and to surround us with his grace, love, and mercy. The Lord is gracious and merciful, slow to anger and abounding in steadfast love. The lord is good to all, and His mercy is over all that He has made." Psalm 145:8-9. The Bible, the ultimate authority of God's will, is clear. We must put our faith in God, not in man-made immunizations. We treat the sick, not the healthy. Immunizations go against God's word and I will not put any of them into my body.

As such, I do not believe that immunizations can heal; that is the job of faith and God. We feel that if we trust in the immunization process, rather than the healing powers of God, we disconnect from our faith. Trust in God is 100%; one cannot call themselves faithful to God without a 100% commitment of trust and faith.

I am a Careful Steward of My Body as His Temple

"Do you know that your body is a temple of the Holy Spirit, who is in you, whom you have received from God? You are not your own. That God is in you. That he is our healer." (Corinthians 6:19). Our bodies are a temple of God, created in His image, and subject to His powers that lie within us. God is our healer. Ever since I had cancer, I reconnected with God on the deepest level. I have always been a deeply religious person, but my experience facing death brought my relationship with God to become even more important.

I trust my Lord and Savior Jesus Christ to protect me and my family. Should I encounter a disease that has a vaccine, I would depend on the body God perfectly created to do what it was designed to do. If I were to get sick from COVID-19 or any other illness which some choose to vaccinate for, at that point I can choose to seek out treatment. I will not alter my God-given immune system. The Bible tells us that our bodies are made perfectly, in His image. We must respect what God has created for us. The Bible does not prohibit medical treatment like it does prophylactic immunization. Even if I chose to accept a treatment, though, I must be sure not to defile my temple with any treatments. Doctors to not consider our souls when they recommend certain

medical courses of action. I would spend a lot time in prayer, and I would weigh out my options of treatment with each isolated medical situation that would be best for my body without contaminating the holiness of my temple. The Lord is leading in our decisions of how to treat our bodies and live our lives. We must always make sure that we honor Him and are guided by his will in all of our decisions.

Before my experience with cancer, I had always listened to what doctors told me to do. However, after that experience, which caused a deepening of my walk with Christ and increased my faith, I became much more in tuned to what God expects of me when making medical decisions. After this, I made the decision to never receive any vaccines for me and my family. This also led me to make other changes. Through prayer, God revealed to me that there has to be another way. I turned to holistic medicine after being cancer free because I realized that the best way to honor my body as God's temple is to treat myself as such. I learned that the body can heal itself. Eating healthy and natural food from God's green Earth and avoiding anything that would defile my body and ultimately my soul. I have managed to stay cancer free for the last 17 years. I do not have any other ailments and do not take any medications. My oncologist and I argue all the time because I do have osteoporosis due to the chemo and radiation, she recommends to get an injection every 6 months to strengthen my bones. After praying and seeking God's direction, I refused to take this treatment. I do not think this is a treatment but more like a prevention in the same way as a vaccine is. I will not disobey God's laws. I will not defile my Temple by putting these things into my body even if they are doctor recommended. Although I do not vaccinate, I haven't had the flu or COVID, praise God.

Conclusion

I have gone into great detail explaining my religious beliefs and where they stem from. It is clear that I deserve a religious accommodation under federal and state law. It is not clear why the Department of Investigations denied my original request but I do know that their decision is in violation of the law. My sincerely held religious beliefs control my medical decisions. I have declined all vaccines on account of these beliefs. I also deny certain medical treatments. God's law trumps over all else for me, including any recommendation from a doctor, a public health agency, or a vaccine mandate from the City of New York. I ask that my appeal be granted.

Sincerely,

Liz B. Delgado